

SEP 13 2001

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

DEPT. OF INSURANCE
BY CB

In the Matter of:

) Docket No. 01A-211-INS

CONTINENTAL ASSURANCE COMPANY,
NAIC #62413;

) **CONSENT ORDER**

Respondent.

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Examiners for the Department of Insurance (the "Department") conducted a market conduct examination of Continental Assurance Company ("Continental"). The Report of the Examination of the Market Conduct Affairs of Continental, dated November 18, 1999, alleges that Continental has violated A.R.S. §§20-311, 20-461, 20-462, 20-466.03, 20-485.01, 20-2106, and A.A.C. R20-6-201 and R20-6-801.

Continental wishes to resolve this matter without formal proceedings, admits that the following Findings of Fact are true, and consents to the entry of the following Conclusions of Law and Order.

FINDINGS OF FACT

1. Continental is authorized to transact life and disability insurance pursuant to a Certificate of Authority issued by the Director.

2. The Examiners were authorized by the Director to conduct a market conduct examination of Continental. The on-site examination covered the period from July 1, 1996 through June 30, 1999, and was concluded on November 18, 1999. Based on the findings the Examiners prepared the "Report of Examination of the Market Conduct Affairs of Continental Assurance Company" dated November 18,

1 1999.

2 3. Continental paid commissions to two agents unlicensed in Arizona at the
3 time of the transaction of insurance.

4 4. The Examiners reviewed a limited benefits program marketed by the
5 Company under the name "Fundamental Care" and issued to employees of four
6 employers in Arizona during the period of the examination and found that Continental
7 used an advertising form that displays with unequal prominence, a contract's benefits
8 versus the limitations for pre-existing conditions, limitations, and exclusions in a
9 manner that minimizes or otherwise renders obscure information required to be set out
10 conspicuously with statements to which such information relates.

11 a. Continental included non-insurance discount programs in disability
12 advertising material in a manner that suggests that the discounts are insurance
13 programs.

14 b. Continental included personal property insurance in disability
15 advertising material where the only Company mentioned in the material was not
16 licensed to transact property and casualty insurance.

17 5. The Examiners reviewed 17 of 17 contracts with Third Party
18 Administrators active during the period of the examination and found that Continental
19 failed to include a provision in three contracts that the insurer shall provide fifteen days
20 notice to the Director of termination or cancellation or any other change in the
21 agreement.

22 6. The Examiners reviewed the claim forms used by the Company during
23 the time frame of the examination and found that Continental failed to include a
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1 compliant fraud warning statement on its claim form.

2 7. The Examiners reviewed 50 of 273 Employer group life claims, 23 of 23
3 "Affinity" life insurance claims, 50 of 82 waiver of premium claims, 64 of 64 special
4 markets group claims, 13 of 13 Special Programs [international students] claims, 37 of
5 37 Special Programs [IGS] claims, 11 of 11 Special Programs [cultural exchange
6 students] claims, and 50 of 144 individual life insurance claims paid by Continental
7 during the period of the examination and found as follows:

8 a. Continental failed to send an acknowledgement notice or to make
9 payment to 85 claimants within 10 working days of receipt of notification of a claim.

10 b. Continental failed to advise 50 first party claimants of the
11 acceptance or denial of the claim within 15 working days after receipt of properly
12 executed proofs of loss and failed to notify the claimants, within fifteen working days
13 after receipt of properly executed proofs of loss, of the Company's reasons or need for
14 additional time to investigate claims to determine if Continental should accept or deny
15 the respective claims.

16 c. Continental failed to notify 30 first party claimants of the
17 Company's reasons additional time is needed for investigation 45 days from the date of
18 the initial notification and every 45 days thereafter.

19 d. Continental failed to complete investigation of 57 claims within 30
20 days of notification of claim.

21 e. Continental failed to document 16 claims files with all notes and
22 work papers in such detail that all pertinent events and dates can be reconstructed.

23 f. Continental failed to require from 15 claimants an authorization to
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1 Release Claim Information.

2 g. Continental failed to pay interest at the legal rate on 22 claims that
3 were not paid within 30 days after receipt of properly executed proofs of loss.

4 **CONCLUSIONS OF LAW**

5 1. Continental violated A.R.S. §20-311(A) by paying commissions to agents
6 in connection with insurance transacted within Arizona who were not, at the time of the
7 transaction, licensed as an agent or broker.

8 2. Continental violated A.A.C. R20-6-801(E) and A.R.S. §20-461(A)(2) by
9 failing to send an acknowledgement notice or to make payment to the claimant within
10 10 working days after receiving notice of a claim.

11 3. Continental violated A.A.C. R20-6-801(G)(1)(a) and A.R.S. §20-461(A)(5)
12 by failing to notify the first party claimant of the acceptance or denial of the claim within
13 15 working days after receipt of an acceptable proof of loss.

14 4. Continental violated A.A.C. R20-6-801(G)(1)(b) and A.R.S. §20-461(A)(3)
15 by failing to advise first party claimants, within 15 working days after receipt of an
16 acceptable proof of loss, of the reasons why more time was needed to determine if the
17 claim would be accepted or denied and by failing to send the first party claimant a letter
18 setting forth the reasons additional time was needed for investigation 45 days from the
19 date of the initial notification and every 45 days thereafter.

20 5. Continental violated A.A.C. R20-6-801(F) and A.R.S. §20-461(A)(3) by
21 failing to complete the investigation of a claim within 30 days after notification of the
22 claim.

23 6. Continental violated A.A.C. R20-6-801(C) by failing to document claim
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1 files with all notes and work papers in such detail that all pertinent events and dates
2 can be reconstructed.

3 7. Continental violated A.R.S. §20-462(A) by failing to pay interest on claims
4 that were not paid within 30 days after receipt of an acceptable proof of loss.

5 8. Continental violated A.R.S. §20-466.03 by failing to include a fraud
6 warning on claim forms.

7 9. Continental violated A.R.S. §20-2106 by failing to use an Authorization to
8 Release Claim Information form in connection with a claim for life insurance benefits.

9 10. Continental violated A.A.C. R20-6-201(E) by using an enrollment
10 brochure that displays with unequal prominence the contract's benefits versus the
11 limitations for pre-existing conditions, limitations, and exclusions.

12 11. Continental violated A.R.S. §20-485.01(B) by failing to include a provision
13 in its TPA contracts that the insurer shall provide 15 days notice to the Director of
14 termination or cancellation or any other change in the agreement.

15 13. Grounds exist for the entry of the following Order, in accordance with
16 A.R.S. §§20-220, 20-456, and 20-2117.

17 **ORDER**

18 **IT IS ORDERED THAT:**

- 19 1. Continental Assurance Company shall not:
- 20 a. Pay commissions to agents in connection with insurance
- 21 transacted within Arizona and not licensed at the time of the transaction.
- 22 b. Fail to send an acknowledgement notice or make payment to
- 23 claimants within 10 working days after receiving notice of a claim.
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1 c. Fail to accept or deny claims within 15 working days after receipt
2 of proof of loss.

3 d. Fail to advise claimants, within 15 working days after receipt of
4 proof of loss, of the reasons why more time is needed to determine if the claim would
5 be accepted or denied.

6 e. Fail to send claimants a letter setting forth the reasons additional
7 time is needed for investigation 45 days from the date of the initial notification and
8 every 45 days thereafter.

9 f. Fail to complete investigation of claims within 30 days after receipt
10 of notification of claim.

11 g. Fail to document claim files with all notes and work papers in such
12 detail that all pertinent events and dates can be reconstructed.

13 h. Fail to pay interest on a claim that is not paid within 30 days after
14 receipt of an acceptable proof of loss.

15 i. Fail to include a fraud warning on claim forms.

16 j. Fail to use an Authorization to Release Claim Information in
17 connection with a claim.

18 k. Use advertising that displays with unequal prominence a contract's
19 benefits versus the limitations for pre-existing conditions, limitations, and exclusions in
20 a manner that minimizes or otherwise renders obscure information required to be set
21 out conspicuously with the statements to which such information relates.

22 l. Use terms describing insurance contracts that misrepresent the
23 benefits, advantages, conditions or terms of an insurance policy.

1 m. Use advertising that misrepresents the benefits, advantages,
2 terms or conditions of an insurance policy.

3 n. Use third party administrator contracts that fail to include a
4 provision that the insurer shall provide 15 days notice to the Director of termination or
5 cancellation or any other change in the agreement.

6 2. Within 90 days of the filed date of this Order, Continental shall submit to
7 the Arizona Department of Insurance, for approval, evidence that corrections have
8 been implemented and communicated to the appropriate personnel regarding all of the
9 items mentioned in Paragraph 1 of the Order section of this Consent Order. Evidence
10 or corrective action and communication thereof includes, but is not limited to, memos,
11 bulletins, E-mails, correspondence, procedures manuals, print screens and training
12 materials.

13 3. Within 90 days of the filed date of this Order, Continental shall document
14 to the Department that it has paid interest on the 5 claims listed in Exhibit A of this
15 Order. Interest shall be calculated at the rate of ten percent per annum, from the date
16 each claim was received by the Company, to the date of payment.

17 4. Each refund identified in Paragraph 3 of the Order section of this Consent
18 Order shall be accompanied by a letter in a form previously approved by the Director.

19 5. The Department shall be permitted, through authorized representatives,
20 to verify that Continental has complied with all provisions of this Order.

21 6. Continental shall pay a civil penalty of \$22,000.00 to the Director for
22 deposit in the State General Fund in accordance with A.R.S. §20-220(B). The civil
23 penalty shall be provided to the Market Conduct Examinations Section of the
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1 Department prior to the filing of this Order.

2 7. The Report of Examination of the Market Conduct Affairs of Continental
3 Assurance Company as of November 18, 1999, including the letter submitted in
4 response to the Report of Examination, shall be filed with the Department after the
5 Director has filed this Order.

6 DATED at Phoenix, Arizona this 13th day of September, 2001.

7 Charles R. Cohen

8 Charles R. Cohen
9 Director of Insurance

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EXHIBIT A

Violations of A.R.S. §20-462(A)

Claim Number	Date Claim Received	Date Proof of Loss Received	Date Claim Paid	Number of Days	Amount Due
944574611	5/29/96	6/7/96	7/31/96	63	\$172.60
951718011	6/24/98	8/12/98	9/24/98	92	\$1,698.63
952611011	11/2/98	11/20/98	12/23/98	51	\$13.97
4544603	12/8/98	12/8/98	1/12/99	35	\$9.59
4547554	1/4/99	2/19/99	6/17/99	164	\$1,350.00
Total 5				Total	\$3,244.79

1 **CONSENT TO ORDER**

2 1. Continental Assurance Company has reviewed the foregoing Order.

3 2. Continental Assurance Company admits the jurisdiction of the Director of
4 Insurance, State of Arizona, admits the foregoing Findings of Fact, and consents to the
5 entry of the Conclusions of Law and Order.

6 3. Continental Assurance Company is aware of the right to a hearing, at
7 which it may be represented by counsel, present evidence, and cross-examine
8 witnesses. Continental Assurance Company irrevocably waives the right to such
9 notice and hearing and to any court appeals related to this Order.

10 4. Continental Assurance Company states that no promise of any kind or
11 nature whatsoever was made to it to induce it to enter into this Consent Order and that
12 it has entered into this Consent Order voluntarily.

13 5. Continental Assurance Company acknowledges that the acceptance of
14 this Order by the Director of the Arizona Department of Insurance is solely for the
15 purpose of settling this matter and does not preclude any other agency or officer of this
16 state or its subdivisions or any other person from instituting proceedings, whether civil,
17 criminal, or administrative, as may be appropriate now or in the future.

18 6. Sandra M. Ricketts, who holds the office of **Vice President & Sr**
19 **Financial Officer** Of Continental Assurance Company is authorized to enter into this Order for it and on its
20 behalf.

21
22 August 28, 2001
23 Date

By:

24 **CONTINENTAL ASSURANCE COMPANY**


1 **COPY of the foregoing mailed/delivered**

2 **this** 13th **day of** September , 2001, **to:**

3
4 Sarah Begley

Deputy Director

5 Mary Butterfield

Assistant Director

6 Consumer Affairs Division

Paul J. Hogan

7 Chief Market Conduct Examiner

Market Conduct Section

8 Deloris E. Williamson

Assistant Director

9 Rates & Regulations Division

Steve Ferguson

10 Assistant Director

Financial Affairs Division

11 Alexandra Shafer

Assistant Director

12 Life and Health Division

Nancy House

13 Chief Financial Examiner

Terry L. Cooper

14 Fraud Unit Chief

15 DEPARTMENT OF INSURANCE

16 2910 North 44th Street, Second Floor

Phoenix, AZ 85018

17
18 Continental Assurance Company

Ms. Nancy Komessar, Examination Coordinator

19 CNA Corporate Compliance, 24 S

CNA Plaza

20 Chicago, IL 60685-0001

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